

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 405 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SUMAL WAGHA & OTHERS

Versus

KOLI VAJSUR SIDI & OTHERS

Appearance:

MR SURESH M SHAH for Appellants

MR BK PARIKH for Respondent Nos. 1, 2, 3, 4, 5, 6, 7, 8

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 02/11/98

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. This is an appeal under Order 43 Rule 1 CPC at the instance of the original plaintiffs. The plaintiffs had filed Special Civil Suit No. 54 of 1994 in the court of Civil Judge (Senior Division), Amreli and in the said suit had also filed application exh. 5 for appropriate

interim relief.

3. The trial court initially granted ex parte ad-interim relief in favour of the plaintiffs by way of status-quo order. However, after hearing exh. 5 application on merits, the said order was vacated. Hence, the present appeal.

3.1 It may be noted that by orders dated 20th November, 1994 and 21st March, 1995, passed in Civil Application No. 4542 of 1994 in the present appeal, the status-quo order granted by the trial court, and which was then operative, has been directed to be continued.

4. As a result of the hearing and discussion, learned counsel for the appellants-plaintiffs submitted that the interest of justice would not necessarily be served by deciding the present appeal on merits inasmuch as the resultant order is likely to influence the mind of the trial court while deciding the suit on merits. Although in law any decision which may be rendered in the present appeal would pertain only to the order passed below exh. 5, the order in appeal would necessarily deal with various issues and controversy between the parties, and therefore the apprehension that the trial court is likely to be influenced by the contents of such an order, is not an apprehension without any basis. It was therefore submitted by learned counsel for the appellants-plaintiffs that it would be in the interest of justice that the trial court be directed to dispose off the pending suit as expeditiously as possible within a specific time frame. This position was not contested by learned counsel for the respondents-defendants.

5. In the premises aforesaid, it is directed that the trial court shall hear and dispose off Special Civil Suit No. 54 of 1994 as expeditiously as possible and in any case not later than 31st March, 1999.

6. As observed hereinabove, the status-quo order granted by the trial court at the ex-parte ad-interim stage has continued to operate till today. It is therefore directed that until the suit is heard and decided by the trial court as directed hereinabove, the status-quo as directed by the two orders of this Court (as referred hereinabove) shall continue to operate.

7. This appeal is accordingly disposed off with no order as to costs.

8. The Registry is directed to send yadi to the

trial court forthwith i.e. not later than 6th November,
1998.

9. Direct service is also permitted.

Amp/-